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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,376	08/02/2001	Masahiko Sato	09812.0649-00000.	4275

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EXAMINER

SCHUBERT, KEVIN R

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/920,376

Applicant(s)

SATO ET AL.

Examiner

Kevin Schubert

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues the 112, first paragraph, enablement rejection of claims 3,6,11, and 14. Specifically, Applicant defines a "coverage area" as an area of transmission output and an area of reception sensitivity and then submits that switching to a smaller coverage area may be accomplished by reduction of a transmission output, reduction of reception sensitivity, or both. Examiner finds no indication that "coverage area" is defined as stated by Applicant nor that switching to a smaller coverage area may be accomplished as described. At best, Examiner finds the following "When the authentication button 130 is depressed to turn on, the terminal device is brought into the authentication mode in which the transmission output is reduced and the coverage area of transmitted radio waves is considerably narrowed... Then, when the coverage areas of radio waves transmitted from the terminal devices come into an overlapped relation... mutual authentication is enabled to start" (Page 8, line 23 to Page 9, line 9). It appears that a "coverage area" refers to a coverage area of transmitted radio waves and not a combination of transmission output and reduction sensitivity which may be switched smaller via reduction in transmission output, reduction in reception sensitivity, or a combination of the two. Further, Applicant cites the paragraph bridging pages 14-15 for support. This paragraph merely describes a first embodiment where transmission output is reduced and a second embodiment where reception sensitivity is reduced. This paragraph does not appear to teach Applicant's statements regarding the definition of "coverage area" and what constitutes switching to a smaller coverage area as argued.

Applicant further argues the 112, first paragraph, rejection of claims 1-7,9-15, and 17. Examiner has carefully considered Applicant's comments but respectfully disagrees. Applicant contends that the abstract, page 9, lines 5-9, and page 8, line 6 disclose that "when coverage areas of radio waves transmitted from the terminal from the terminal devices come into an overlapped relation... mutual authentication is enabled to start" and that, further, an authentication unit can perform analysis to make authentication. Examiner notes that the above is different from the claim language, "specifying other devices to be mutually authenticated when the two or more portable radio devices are within a predetermined range of each other over said second coverage area". Finally, Applicant concludes that "performing analysis and specifying other devices to be authenticated [is] described throughout the specification" (Remarks, page 3 lines 10-13). To what extent the previous statement is true, Examiner has required Applicant to either amend the claims OR provide a specific passage where the claim limitation is disclosed, not a general statement that the claim limitation is described throughout the specification.

Applicant further argues the 112, second paragraph, rejection of claims 1-7,9-15, and 17. Specifically, Applicant argues that the amendment to "mutual authentication" now cures the deficiency. Examiner respectfully disagrees. The ambiguity in the claim language is what the phrase "before mutual authentication initiates" modifies, not what type of authentication initiates. Specifically, it is unclear whether "narrowing the coverage area" is done before mutual authentication initiates or whether the portable radio devices are "to be mutually authenticated" before mutual authentication initiates.

Applicant further argues the rejection of claims 1-7,9-15, and 17 under 103(a) in light of Nealon in further view of Cotton in further view of Executive Council. Applicant presents the following arguments:

- (1) The references do not teach performing mutual authentication "automatically when the coverage area of the two or more portable devices overlap"
- (2) The references do not teach "preventing communication with an unintentional portable radio device by narrowing the coverage area of the two or more portable radio devices to be mutually authenticated before mutual authentication initiates"
- (3) No motivation to combine references
- (4) No publication date for Executive Council

Examiner respectfully disagrees with the above. Regarding (1), Applicant argues, more specifically, that since a user presses a button in Nealon on the handset unit, authentication does not take place automatically. To begin with, Examiner respectfully notes that authentication on the base unit is performed automatically. Thus, even if Applicant's statements were all correct, the argument does not overcome the rejection because the base unit of Nealon has authenticating means for performing automatic authentication. To what extent the argument is still appropriate, Examiner respectfully disagrees that authentication does not take place automatically. As stated by Nealon, "the user presses the # button on the dialpad to prepare the handset unit to enter registration with the base unit" (Col 9, lines 3-5). While pressing a button may prepare the handset unit to enter into a registration state, the authentication process, itself, is an automated process between the handset unit and base unit.

Regarding (2), Applicant appears to be arguing that there is no prevention of communication with an unintentional portable radio device based on proximity of the two devices. Examiner respectfully disagrees. As described by Nealon, a user may enter a base unit into a registration state and a low power state. Further, a handset unit in proximity to the base unit also may enter a low power state below the normal operating power level such that no calls can be placed or received (Col 8, lines 30-34).

Regarding (3), Applicant argues that there is no motivation to combine the references. Examiner submits that motivation for combining Cotton with Nealon was provided on page 5, lines 3-6 of the previous action and motivation for combining Executive Council with those of Nealon in view of Cotton was provided on page 5, lines 9-13 of the previous action.

Regarding (4), Applicant argues that the publication date of Executive Council is not known. Review has been taken by both the Examiner and the Electronic Information Center of the U.S. Patent Office. As referenced by call number EC-XIV/TS.2 printed on page 1, the publication date for the cited article is 26 January 1999, as printed on page 1 of the document. This document was published and circulated on 26 January 1999 for the Fourteenth Session on 2-5 February 1999.

Applicant further argues that the rejection for claims 3,6,11, and 14 are deficient. To what extent Applicant's statements are true, Examiner respectfully notes that the claims have not been deemed to be enabled as presented, and that Examiner has applied art most in accordance with the believed invention.